

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
November 28, 2017

v

DARAIAN LEE WINFIELD,  
Defendant-Appellant.

No. 334396  
Wayne Circuit Court  
LC No. 16-002089-01-FC

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Before: METER, P.J., and BORRELLO and RIORDAN, JJ.

PER CURIAM.

Defendant appeals as of right his convictions by a jury of first-degree premeditated murder, MCL 750.316(1)(a); first-degree home invasion, MCL 750.110a(2); and second-degree criminal sexual conduct (CSC-II), MCL 750.520c. The trial court sentenced defendant to concurrent sentences of life in prison without parole for the murder conviction, 10 to 20 years' imprisonment for the home-invasion conviction, and 10 to 15 years' imprisonment for the CSC-II conviction. We affirm.

The evidence showed that defendant broke into the home of the victim, GW, and then sexually and physically assaulted her. The victim later died from injuries sustained during the assault, including blunt-force injuries that exposed portions of her brain. Although forensic evidence supported defendant's identity as the person who attacked the victim, the trial court also granted the prosecutor's motion to introduce other-acts evidence, consisting of a similar offense that occurred down the street from GW's house the prior week. In his sole issue on appeal, defendant argues that the trial court erred in admitting the other-acts evidence.

We review the trial court's decision to admit the other-acts evidence for an abuse of discretion, *People v Bynum*, 496 Mich 610, 623; 852 NW2d 570 (2014), which occurs when a court selects an outcome that is outside the range of principled outcomes, *People v Douglas*, 496 Mich 557, 565; 852 NW2d 587 (2014).

MRE 404(b)(1) prohibits evidence of a person's other crimes, wrongs, or acts "to prove the character of a person in order to show action in conformity therewith." See also *People v Jackson*, 498 Mich 246, 259, 276; 869 NW2d 253 (2015). However, the rule permits such evidence for other purposes, such as to show a scheme, plan, or system in doing an act. MRE 404(b)(1). To be admissible, other-acts evidence must meet three requirements: (1) it must be offered for a proper purpose, (2) it must be relevant, and (3) its probative value must not be

substantially outweighed by the danger of unfair prejudice. *People v Knox*, 469 Mich 502, 509; 674 NW2d 366 (2004). If the evidence is admitted, the trial court may provide a limiting instruction upon request. *Id.*

The prosecution presented evidence that defendant committed a similar offense approximately a week before the charged offense against another victim, MB, who lived down the street from GW's house. The evidence was offered to prove defendant's scheme, plan, or system in doing an act, making it probative of defendant's identity as the person who assaulted and murdered GW. A "scheme, plan, or system in doing an act," MRE 404(b)(1), may be established by showing that "the uncharged misconduct and the charged offense are sufficiently similar to support an inference that they are manifestations of a common plan, scheme, or system," *People v Sabin (After Remand)*, 463 Mich 43, 63; 614 NW2d 888 (2000). Under this method, the similarity of the charged and uncharged acts must consist of something more than the commission of the same crime. *Id.* at 64. The acts must share "sufficient common features to infer a plan, scheme, or system to do the acts," *id.* at 66, but those common features need not be "distinctive and unusual," *People v Hine*, 467 Mich 242, 252-253; 650 NW2d 659 (2002).

The forensic evidence and MB's identification testimony showed that defendant was the person who committed the other acts at issue. While there were some differences between the incident at MB's house and the incident at GW's house, the two incidents were sufficiently similar to show that they were common manifestations of the same plan. In the MB incident, defendant broke into the home of a young woman who had attended his high school. He used a milk crate to get in through a window. It appears that defendant turned to the young woman's mother, MB, after realizing that the young woman was not home. Indeed, MB testified that defendant told her that the daughter was not at home and that defendant made a gesture indicating that he wanted sex from MB. Defendant did not seek MB's consent, but instead tried to subdue her by force, using objects found in the house as weapons during a very violent attack. MB was seriously injured, but not incapacitated and was able to fight off defendant. In the GW incident, someone broke into the home of a young woman defendant knew from his school and who lived on the same street as MB and her daughter. After the attack, GW's panties were shifted and she had "peed . . . blood." Defendant's sperm was found on the panties. The intruder gained entry through a window, and a reasonable inference from the evidence was that the intruder used a plastic tote box to access the window. GW was subdued by force during a very violent attack that likely included the use of an object. That defendant had employed a similar plan with MB tended to make it more likely that he was the same person who employed the same plan with GW.

Even if other-acts evidence is relevant for a proper purpose, it may be excluded "if its probative value is substantially outweighed by the danger of unfair prejudice[.]" MRE 403. The fact that evidence is damaging does not mean it is unfairly prejudicial, because any relevant evidence "will be damaging to some extent." *Sclafani v Peter S Cusimano, Inc*, 130 Mich App 728, 735-736; 344 NW2d 347 (1983). Evidence offered against a party is "by its very nature . . . prejudicial, otherwise there would be no point in presenting it." *People v Fisher*, 449 Mich 441, 451; 537 NW2d 577 (1995). Evidence is unfairly prejudicial if there is a danger that marginally probative evidence will be given undue weight by the jury, *People v Ortiz*, 249 Mich App 297, 306; 642 NW2d 417 (2001), when it would lead the jury to decide the case for reasons "extraneous to the merits of the lawsuit," *People v Goree*, 132 Mich App 693, 702-703; 349

NW2d 220 (1984), or when it would be inequitable to allow the use of the evidence, *People v Blackston*, 481 Mich 451, 462; 751 NW2d 408 (2008).

In this case, there were no witnesses to the crimes at issue and defendant gave unclear and conflicting statements to the police; the other-acts evidence was highly relevant because it tended to prove that defendant was the perpetrator. In addition, the trial court gave two limiting instructions on the limited, permissible use of the evidence, thereby alleviating the risk of unfair prejudice. Such limiting instructions protect a defendant's right to a fair trial, *People v Kahley*, 277 Mich App 182, 185; 744 NW2d 194 (2007), and jurors are presumed to follow their instructions, *People v Abraham*, 256 Mich App 265, 279; 662 NW2d 836 (2003). The trial court did not abuse its discretion in finding that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice. The trial court did not err in admitting the evidence.

Affirmed.

/s/ Patrick M. Meter  
/s/ Stephen L. Borrello  
/s/ Michael J. Riordan